

REMARKS

The present amendment is submitted under the provisions of 37 CFR 1.116 to place this case in better form for appeal or in immediate condition for allowance.

1. Applicants appreciate the Examiner's statement in paragraph 1 of page 2 of the Office Action to the effect that the rejections under 35 USC 112, second paragraph, have been withdrawn.

2. Claims 2-7 have been incorporated into claim 1 and claims 10-14 into claim 9 so that claims 1 and 9 effectively have become claims 7 and 14 written in independent form. Minor changes have been made in claims 8 and 15 because of the cancellation of claims 2-7 and 10-14.

3. Based upon the amendment, reconsideration of the rejection of claims on the AAPA in view of BUCHMAN (L) and SIMONET-TI et al (K) is requested.

Firstly, applicants do not agree with the Examiner's contention that the seal bars 260 in the BUCHMAN reference are separation welding elements capable of forming a weld and simultaneously separating the seam which is formed so that the bag is separated from the web between the separation welding element, nor do applicants agree that the art effectively has such separation welding elements extending at a right angle to the path of the bag as claims 1 and 9 provided originally and now also provide. The

fact that a bag can be separated at a later stage removes the prior art disclosure from those teachings of applicants and the claims and when the obviousness test is made, there must be an answer to the question of why the ordinary skilled worker in the art would find it obvious from teachings which provide a later separation, to simultaneously seam and separate. For this reason alone the rejection under 35 USC 103 cannot stand.

However, claims 1 and 9 are now directed to the entire method and machine and that machine and method can certainly not be found to be obvious for the ordinary worker in the art even with BUCHMAN, SIMONETTI et al and the AAPA before them, because of the numerous differences which the Examiner himself has developed and effectively has considered immaterial for a variety of reasons.

The composite claims set forth is additive to the other distinctions and is but an additional reason why the entire machine and method would not have been obvious to the person of ordinary skill to whom the claims re directed.

But even of greater importance is the fact that even if BUCHMAN discloses two welding elements, that reference does not disclose two separating elements at which welding and separation occur simultaneously.

The step link selection which the Examiner finds obvious is not taught in the art and there are many ways to control an apparatus. For example, the line may be moved incrementally so that steps much smaller than the product bag width and number of separating elements could be used. Why the ordinary skilled in the

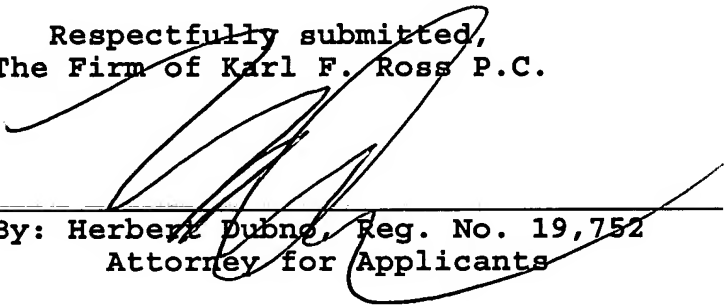
art would deduce the claimed technique, the Examiner has not said, nor is it apparent from anything in the art of record.

Indeed, the Examiner has cited numerous differences between what is claimed and the prior art and has drawn upon the instant disclosure for support for his contention that this art would have been obvious to the ordinary worker in the field. That is improper.

Claims 1, 8, 9, 15 and 16 are thus deemed to be allowable and an early Notice to that effect is earnestly solicited.

4. A petition for a one-month extension of the term is enclosed together with a charge form covering the extension fee.

Respectfully submitted,
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17 August 2004
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Enclosures: Petition for one mo. ext.
Fm. 2038 for \$110